

The opinion in support of the decision being entered today was *not* written for publication and is *not* binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER K. KASSAB

Appeal 2007-0171
Application 09/901,472
Technology Center 1700

Decided: February 28, 2007

Before BRADLEY R. GARRIS, THOMAS A. WALTZ, and
CATHERINE Q. TIMM, *Administrative Patent Judges*.

TIMM, *Administrative Patent Judge*.

ORDER REMANDING TO THE EXAMINER

This application comes to us pursuant to an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1, 2, 4-6, 13, 14, and 22-24. Because Appellant's appeal meets the requirements of 35 U.S.C. § 134(a), we have jurisdiction under 35 U.S.C. § 6(b).

To support several obviousness rejections, the Examiner cites JP 9-97014 (JP '014), a document in the Japanese language. The Examiner relies

upon a translation generated by computer to show what this document would have taught to one of ordinary skill in the art. Appellant contends that one of ordinary skill in the art would not have been motivated to combine the teachings of JP '014 with those of other references cited in the rejection (Br. 23). To fully review the issue arising out of Appellant's contention, we must consider the teachings of JP '014 from the viewpoint of one of ordinary skill in the art and this requires that we understand the teachings of the reference in its entirety. To this end it is of the utmost importance to have an English translation that reflects what is described in the original foreign document. The computer-generated translation falls short. A translation that reflects the disclosure of the original Japanese document using proper English is required before we can review the rejection on appeal. We, therefore, remand this application to the jurisdiction of the Examiner and order the Examiner to obtain the necessary English translation.

Once a proper translation is obtained, the Examiner should further consider the rejection and write a supplemental examiner's answer, if appropriate.

This Remand to the Examiner pursuant to 37 C.F.R. § 41.50(a)(1) is made for further consideration of a rejection. Accordingly, 37 C.F.R. § 41.50(a)(2) applies if a supplemental examiner's answer is written in response to this Remand by the Board. A supplemental examiner's answer may include a new ground of rejection, but it must be made in accordance with the requirements enunciated in MPEP 1207.03(I) (8th ed., Rev. 5, Aug. 2006). If the Examiner files a supplemental examiner's answer, Appellant must respond in accordance with 37 C.F.R. § 41.39(b) by either requesting

Appeal 2007-0171
Application 09/901,472

reopening of prosecution before the Examiner or by filing a reply brief to maintain the appeal.

We ORDER this application

REMANDED

clj

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